// A regular meeting of the Council of the City of Lynchburg was held on the 9th day of June, 2009, at 7:30 P.M. in the Council Chamber, City Hall, Joan F. Foster, President, presiding. Council Member Gillette gave the Invocation, followed by the Pledge of Allegiance. The following Members were present:

Present: Dodson, Gillette, Johnson, Perrow, Foster 5

Absent: Garrett, Helgeson 2

// Mayor Foster and Vice Mayor Dodson recognized Olivia Rebecca Fletcher, Miss Hill City's Outstanding Preteen, Mati Anderson, Miss Virginia's Outstanding Teen, and Laura Pennington, Miss Hill City.

// Ryan Neace, a member of the Lynchburg Downtown Neighborhood Advocates Steering Committee, presented Mayor Foster with a $300 check to purchase books for the Mayor's Amazing Book Race.

// Copies of the minutes of the May 26 (two meetings), 2009 meeting, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster 5

Noes: 0

Absent: Garrett, Helgeson 2

// In the matter of Public Works - Water, City Council Report #2 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-09-048, as presented, supporting revisions to the George Washington Forest Management Plan and thereby improve the management of drinking water resources:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster 5

Noes: 0

Absent: Garrett, Helgeson 2

// In the matter of Finance - Bonds, City Council Report #3 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-09-049, as presented, to authorize the reallocation of up to $2,500,000 of the General Obligation Public Improvement Bonds issued for Economic Development, Parks and Recreation, Transportation and Buildings Improvement Projects:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster 5

Noes: 0

Absent: Garrett, Helgeson 2

// In the matter of Police – Emergency Communications, City Council Report #4 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-050, as presented, amending the FY 2009 City/Federal/State Aid Fund budget and appropriating $8,480, fully reimbursable, to add two wireless 911 trunk lines needed to handle increased use by the public:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster 5

Noes: 0

Absent: Garrett, Helgeson 2

// In the matter of Courts - General, City Council Report #5 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-051, as presented, amending the FY 2009 General Fund budget and appropriating $59,470, fully reimbursable, to support information technology needs in the Office of the Circuit Court Clerk:

Ayes:	Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:		0
Absent:	Garrett, Helgeson	2

// In the matter of Recreation - General, City Council Report #6 was considered. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-052, as presented, amending the FY 2009 City Capital Projects Fund budget and appropriating $350,000, with $250,000 reimbursement, for construction of the Clemmons Lake Place, an access road to the Ivy Creek Nature Center:

Ayes:	Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:		0
Absent:	Garrett, Helgeson	2

// In the matter of Community Planning - General, City Council Report #7 was considered. On motion of Vice Mayor Dodson, seconded by Council Member Perrow, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-053, as presented, amending the FY 2009 City Capital Projects Fund budget and appropriating $1,000,000, fully reimbursable, to be used for improvements to the expressway retaining wall at Grace Street:

Ayes:	Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:		0
Absent:	Garrett, Helgeson	2

// In the matter of Schools - Board, a public hearing continued from May 26 was held to receive input from citizens regarding appointments (or reappointments) to vacancies that will exist June 30 in each of the three (3) School Board representational districts. Mayor Foster announced that the Clerk has received no additional names. There was no one present who wished to speak to this item. Council Member Perrow expressed concern regarding the lack of volunteers for the District 3 vacancy and questioned whether City Council should once again continue the public hearing until the next meeting. In response to questioning, City Attorney Walter Erwin explained that the State Code requires City Council to hold a public hearing at least seven days prior to making the appointments and if the public hearing was continued to June 23, then City Council could not make the appointments at that meeting. Mr. Erwin went on to say that Virginia follows the “hold over” rule whereby an incumbent in office, if willing, can continue to hold office until a successor is appointed. Council Member Johnson also mentioned that City Council could reopen the public hearing process at a later date. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote closed the public hearing:

Ayes:	Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:		0
Absent:	Garrett, Helgeson	2

// In the matter of Community Planning - Zoning, Mayor Foster stated that the applicant has requested that the public hearing regarding the petition of J.M.U., LLC, to amend the Future Land Use Map (FLUM) from an Office use to a Medium Density Residential use and for a Conditional Use Permit (CUP) to allow the construction of 75 townhouses with associated parking and amenities in a B-1, Limited Business District, at 1700 Graves Mill Road be postponed until July 14. Mayor Foster explained that this petition has been advertised for a public hearing and there may be individuals present who would like to speak and that it is staff's position that once the public hearing has been advertised for a land use case, the matter is in Council's hands. Mayor Foster went on to say that Council could proceed with the public hearing and following public comment either (1) close the public hearing and vote on the petition tonight, (2) close the public hearing and delay the vote until either June 23 or July 14, or (3) continue the public hearing to July 14 to allow for additional comment from both the applicant and the public. Council Member Perrow made a motion, seconded by Vice Mayor Dodson, to open the public hearing, receive public comment, and then continue the public hearing to the July 14 meeting. Council Member Gillette stated that he would like to open the public hearing but wait until the end of the public comment to determine whether or not to close the public hearing or continue it to a later date, and offered that suggestion as a friendly amendment to the motion. Council Member Perrow and Vice Mayor Dodson accepted the friendly amendment, and Council by the following recorded vote agreed to open the public hearing:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:	0
Absent: Garrett, Helgeson	2

City Planner Tom Martin provided a brief summary regarding the petition, stating that the Planning Commission recommended denial of the FLUM amendment and CUP petitions for the following reasons, i.e., (1) the FLUM's office designation for the property is appropriate and is within a geographic location that would allow for an office use to serve residents of the City and adjacent county, (2) the specifics of how traffic would enter the site were not defined to the satisfaction of the Planning Commission, (3) the Planning Commission had concerns whether the approval of this project would lead to market saturation of townhouses and subsequent overbuilding of a specific housing type, and (4) although mass transit service is available on Graves Mill Road, the closest stop is on the opposite side of Graves Mill Road approximately five hundred feet from the entrance, and it is highly unlikely residents of this property would be able to use that because of traffic volume on Graves Mill Road. Mr. Jim May along with Mr. Ed Ewers, of James C. May & Associates, representing the petitioner, outlined the request and asked for approval. Mr. May informed that the development will provide affordable housing for first time homeowners. Mr. Ewers stated that the developers will be leaving as many of the existing trees on the site as they possibly can and that the area along the creek will not be developed at all and will be left as a natural recreation area with a walking trail. Mr. Ewers noted that any place where there is a residential area will be buffered with an evergreen buffer that the City requires between multi-family and residential areas and that the development will be connected to the City's sewer and water systems. Mr. Ewers went on to say that there are no plans to extend the road through the Maple Hills Subdivision and that all traffic flow from the development will be via Graves Mill Road. Mr. Ewers also suggested that a reduction in the speed limit on Graves Mill Road from 55 mph to 35 mph and changing the timers on the traffic lights would allow for a better flow of traffic on this road and thereby negating the need for a left turn lane into the development. Mr. Rick Read of Coldwell Banker stated that the site has been vacant for six or seven years and that he thinks that this is a good use for the property. Mr. Mark Hartless and Elizabeth Sims, a local realtor, spoke regarding the need for this type of housing in the City. Ms. Ann Scott, representing residents of the Maple Hills Subdivision, spoke in opposition to the petition stating the a townhome community on the proposed site would be an encroachment on their quality of life, a detriment to their property values, and an infringement on their right to own homes in the type of community they choose—not in a community that is forced on them. Ms. Scott went on to say that the City is already oversaturated with vacant, unsold townhomes, expressed concern regarding the future extension of the road into the Maple Hill Subdivision, and noted that the property already corresponds perfectly with the City's plan for development in the area. Eleven residents of the Maple Hills Subdivision also spoke in opposition to the proposed development citing similar concerns. There was no one else present who wished to speak to this item. Council Member Perrow made a motion, seconded by Vice Mayor Dodson, to continue the public hearing to July 14. Several Council Members stated that they would like to close the public hearing but delay the vote until the next meeting so that the full Council can have an opportunity to comment on and vote on this land use request. Council Member Gillette stated that he is prepared to vote this evening and offered a substitute motion to deny the petition in accordance with the Planning Commission's recommendations. The motion died for lack of a second. Council Members discussed further whether or not to close the public hearing and when to bring the matter back for a final vote. Council Member Gillette indicated that he would be willing to wait until the full Council was present and suggested that the public hearing be closed and that the vote be delayed until the next meeting. Council Member Perrow stated that he would like to offer an amendment to his motion, i.e., to go ahead and close the public hearing but delay the vote until the June 23 meeting so that the full Council can be present. Council Members did not object to Council Member Perrow's amendment. Several Council Members also indicated that they would like to hear from the City's Traffic Engineer regarding the suggestions offered by Mr. Ewers regarding changes to Graves Mill Road, i.e., speed limits changes, left turn lane which would require widening of the road. The vote was called on the amended motion, and Council by the following recorded vote agreed to close the public hearing and delay the vote until the June 23 Council meeting:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:	0
Absent: Garrett, Helgeson	2

// In the matter of Community Planning - CDBG, a public hearing was held regarding a Substantial Amendment to the 2008 Annual Action Plan to add additional Community Development Block Grant (CDBG) Funds from the American Reinvestment and Recovery Act. Community Planning Director Charlene Montford stated that the City has received notice from HUD regarding the release of an allocation of CDBG funds through the American Reinvestment and Recovery Act and that the City is eligible to receive $237,404 in additional CDBG funds in the current fiscal year. Ms. Montford explained that in order to be eligible to receive these funds, the City will have to submit a Substantial Amendment to our 2008 Annual Action Plan. Ms. Montford went on to say that the Community Development Advisory Committee (CDAC) met and has made the following recommendations for how the $237,404 in CDBG Recovery Act funds should be allocated:

City Administration (10% cap)	$ 23,740.40
LynCag Home Improvement	70,000.00
Fifth Street Corridor	54,800.00
Rebuilding Together Lynchburg	61,663.60
Interfaith Fuel Assistance for the Elderly	9,000.00
United Way/Smart Beginnings	18,200.00
Total	$237,404.00

Ms. Montford explained that in order to comply with the requirements of the Recovery Act, City Council will need to approve the CDAC recommendation regarding the allocation of the $237,404 in CDBG Recovery Act funds. Ms. Gail Lucado spoke in support of Smart Beginnings. Ms. Esther Wood requested funding for driveway paving and improvements to the playground at the Mary Bethune Academy. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Gillette, Chair of CDAC, explained that the Committee followed Council's guidelines in determining the allocations for these funds. Mayor Foster stated that she would like to see funding allocated to the Mary Bethune Academy, especially since this is a City-owned building. Council Member Gillette stated that the Committee thoroughly reviewed a lot of applications for these funds, and, unfortunately, many could not be funded. In response to questioning, Council Member Gillette stated that the public hearing regarding next year's funding will be held at a later meeting. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-09-054, as presented, approving the CDAC recommendation regarding the allocation of the $237,404 in CDBG Recovery Act funds:

Ayes: Dodson, Gillette, Johnson, Perrow 4
Noes: Foster 1
Absent: Garrett, Helgeson 2

// In the matter of Budget FY2009, a public hearing was held regarding City Council Report #11 regarding amending the FY 2009 General Fund, Fleet Fund, City Capital Projects Fund, and Solid Waste Management Fund budgets and appropriating funds in these budgets in order to transfer the remaining fund balance from the closure of the Solid Waste Management Fund. Financial Services Director Donna Witt provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-055, as presented, amending the FY 2009 General Fund, Fleet Fund, City Capital Projects Fund, and Solid Waste Management Fund budgets and appropriating funds in these budgets in order to transfer the remaining fund balance from the closure of the Solid Waste Management Fund:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:	0
Absent: Garrett, Helgeson	2

// In the matter of Finance - Bonds, a public hearing was held regarding City Council Report #12 regarding the adoption of a Resolution authorizing the issuance of not to exceed $19,000,000 of Sewer Revenue Bonds from the Virginia Clean Water Revolving Loan Fund to provide funds to pay the cost of capital improvements to the City's sewer system. Utilities Director Tim Mitchell provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Perrow, Council by the following recorded vote adopted Resolution #R-09-056, as presented, authorizing the issuance of not to exceed $19,000,000 of Sewer Revenue Bonds from the Virginia Clean Water Revolving Loan Fund to provide funds to pay the cost of capital improvements to the City's sewer system:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:	0
Absent: Garrett, Helgeson	2

// In the matter of Public Works - Sewer, a public hearing was held regarding City Council Report #13 regarding amending the FY 2009 Sewer Capital Projects Fund budget and appropriating $25,360,000, fully reimbursable, for the construction of Divisions 2 and 6 of the James River Interceptor as well as the Rainleader disconnection Project for Randolph College. Utilities Director Tim Mitchell provided a brief summary regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Perrow, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-09-057, as presented, amending the FY 2009 Sewer Capital Projects Fund budget and appropriating $25,360,000, fully reimbursable, for the construction of Divisions 2 and 6 of the James River Interceptor as well as the Rainleader disconnection Project for Randolph College:

Ayes: Dodson, Gillette, Johnson, Perrow, Foster	5
Noes:	0
Absent: Garrett, Helgeson	2

// The meeting was adjourned at 9:53 P.M. to June 19, 12:00 Noon, to conduct interviews with School Board candidates.

Clerk of Council